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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,559	01/23/2002	Peter Gross		6947

7590

02/28/2003

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EXAMINER

DOAN, ROBYN KIEU

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,559

Applicant(s)

GROSS ET AL.

Examiner

Robyn Doan

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 23 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eubanks in view of Padulo.

With regard to claims 1-3, 5-6 and 11-15, Eubanks discloses a toothbrush (figs. 2-3) comprising a bristle-carrying front head part (14) and a handle (12) having a cavity (30) extending in the longitudinal direction of the toothbrush, the handle consisting of an at least partially transparent material (col. 3, line 32) and an article (48) being at least partially transparent (col. 2, lines 6-10 and col. 1, lines 48-49) and inside of the cavity and having printing (fig. 2) on it; the cavity being kept closed from the rear by a closure part (52) which has a positioning part (67) including a planar standing surface at right angles to the longitudinal axis of the toothbrush, the closure being connected to the handle by a releasable snap-in connection; in regard to claim 9-10, the article being kept in its position in the position by a securing means (67) which comprises rearwardly directed tongues (60) arranging in the front region of the handle cavity, extent in the longitudinal direction, are made of an elastically material (col. 4, line 16) and are in

Art Unit: 3732

arranged in the form of a circle, the card being kept between the tongues. Eubanks does not disclose the shape of the article and the cavity being of an essentially cylindrical outer shape, however, Padulo discloses a tool (fig. 5) having a handle (21) with a cylindrical cavity (24) therein; the cavity further containing an ampoule (25) with a cylindrical outer shape, preferably made of plastic (col. 2, lines 6-10) which has printing on it (26), Padulo also discloses a closure part (30) being made of thermoplastic material (col. 2, line 44-45 and col. 1, line 48-50). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the cylindrical shape of the ampoule and the cavity as taught by Padulo in the toothbrush of Eubanks as a matter of design choice.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eubanks in view of Padula as applied to claim 1 above, and further in view of Duncan.

With regard to claim 7, Eubanks in view of Padula discloses a toothbrush having all the claimed limitation as discussed above in claim 1 except for the article having luminescent parts. Duncan discloses a firearm (fig. 15) comprising a handle (11) having an article with luminescent parts (24) thereon. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the luminescent parts as taught by Duncan into the toothbrush of Eubanks in view of Padula for the purpose of providing light within the device.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eubanks in view of Padula as applied to claim 1 above, and further in view of Willitts, Jr.

With regard to claim 8, Eubanks in view of Padula discloses a toothbrush having all the claimed limitation as discussed above in claim 1 except for the article having hologram. Willitts, Jr. discloses a decorative device (fig. 3) comprising an image having hologram (30). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the hologram as taught by Willitts into the toothbrush article of Eubanks in view of Padula for the purpose of providing a desirable image.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lo, Albrecht, Carter and Widlak are cited to show the state of the art with respect to a toothbrush or a tool having a handle with cavity therein.

The drawings filed 01/23/2002 have been approved by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (703) 306-9182. The examiner can normally be reached on Mon-Fri 9:30-7:00; alternate Mondays off.

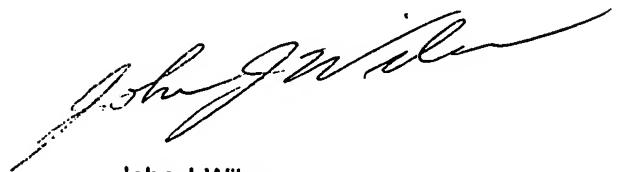
Application/Control Number: 10/052,559
Art Unit: 3732

Page 5

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



Robyn Kieu Doan
Examiner
February 21, 2003



John J. Wilson
Primary Examiner